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***Via Electronic Filing***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, DC 20554

**Re: *Ex Parte Presentation***

*Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, WT Docket No. 12-70; Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142; Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356.*

Dear Ms. Dortch,

Sprint Nextel Corporation ("Sprint") responds to numerous *ex parte* submissions of DISH Network Corporation ("DISH"), most recently its submission dated October 17, 2012, in the above-captioned proceedings.<sup>1</sup> As Sprint has consistently explained, its two primary concerns in this proceeding are: (1) that there be no diminution or weakening of the PCS G Block interference protections established in the 3<sup>rd</sup> Generation Partnership Project ("3GPP") TS 36.101 and the Commission's rules; and (2) that the Commission makes the H Block fully useful for wireless broadband communications and auctions it expeditiously,<sup>2</sup> as mandated by the Middle Class Tax Relief and Job Creation Act of 2012.<sup>3</sup>

Sprint objects to DISH's ongoing misrepresentations of Sprint's advocacy before the Commission. DISH's recent *ex parte* presentations are particularly troubling given Sprint's consistent support in the record for the Commission's proposal to reallocate the MSS S Band from mobile satellite use -- with only ancillary terrestrial service permitted -- to a fully terrestrial broadband allocation, as DISH desires. Sprint has also offered to withdraw its recent G Block protection-related submission to

<sup>1</sup> See, e.g., Letter from Jeffrey H. Blum, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356 and ET Docket No. 10-142, at 1 (October 17, 2012); Letter from Jeffrey H. Blum, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356 and ET Docket No. 10-142 (October 15, 2012); Letter from Jeffrey H. Blum, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356 and ET Docket No. 10-142 (October 11, 2012); Letter from Jeffrey H. Blum, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356 and ET Docket No. 10-142 (October 10, 2012).

<sup>2</sup> See, e.g., Letter from Stephen Bye and Lawrence Krevor, Sprint Nextel Corporation, to Chairman Genachowski, FCC, WT Docket. Nos. 12-70 and 04-356, ET Docket No. 10-142 (October 2, 2012) ("Sprint Nextel Stephen Bye Letter"); Letter from Marc S. Martin, Counsel for Sprint Nextel Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket. Nos. 12-70 and 04-356, ET Docket No. 10-142 (October 2, 2012).

<sup>3</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6401 (2012).

3GPP if DISH does the same as part of a fair and reasonable compromise resolution of the interference standards at issue herein,<sup>4</sup> in furtherance of the Commission's spectrum management responsibilities in the public interest.

In order to maintain a constructive focus on the merits of the important public interest considerations before the Commission in this proceeding, Sprint will refrain from a point-by-point refutation of DISH's ongoing repetition of misleading assertions. The Commission has proposed flexible use rules for AWS-4 services against the backdrop of "*appropriately protecting incumbent operations in neighboring bands*."<sup>5</sup> Sprint's positions in the record advocate fair, responsible, and technically sound service rules for the proposed AWS-4 spectrum reallocation and potentially-affected adjacent spectrum, licensees, and customers.

Moreover, Sprint's comments consistently emphasize the unique RF and interference environment of the 2 GHz band, reflecting the Commission's solicitation of "specific additions or modifications [to the proposed AWS-4 rules] designed to protect broadband PCS services operating in the 1930-1995 MHz band, as well as future services operating in the 1995-2000 MHz Band from harmful interference from AWS-4 mobile devices operating in the 2000-2020 MHz band."<sup>6</sup> In fact, the instant proceeding's NPRM contemplates enhanced protection of the PCS band (of which the G Block is a constituent part) and the adjacent H Block from AWS-4 mobile devices operating in 2000-2020 MHz.

The NPRM recognized that reallocating the S Band from mobile satellite service spectrum with *ancillary* terrestrial authority to a full terrestrial broadband allocation (AWS-4) would have broad and significant implications for adjacent spectrum operations; *i.e.*, that the rules concerning AWS-4, H Block, and the core PCS bands are highly interdependent.<sup>7</sup> Sprint's comments recognize this interdependence, calling on the Commission to take a holistic approach by creating a framework to resolve potential G Block, H Block, and AWS-4 interference concerns in conjunction with each other so that this spectrum is used as fully as possible to serve wireless consumers.<sup>8</sup> For example, the Commission inquired about the OOB limits necessary to resolve potential adjacent band interference from AWS-4 mobile devices operating in the 2000-2020 MHz Band. Sprint has been constructive in responding to such prudent inquiries, as the Commission balances the interrelated interference protection issues resulting from reallocating the mobile satellite S Band spectrum to terrestrial use. There is arguably no responsibility more fundamental to the Commission's mission than spectrum management, and Sprint applauds the Commission staff's hard work in this proceeding to devise a comprehensive framework that takes into account the possible ripple effects of the MSS spectrum reallocation contemplated in this proceeding.

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<sup>4</sup> See Sprint Nextel Stephen Bye Letter, at 2.

<sup>5</sup> Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, *Notice of Proposed Rulemaking*, 27 FCC Rcd. 3561, 3573, ¶ 29 (2012) (emphasis added).

<sup>6</sup> *Id.*

<sup>7</sup> Indeed, to the extent that any delay at 3GPP currently exists, it reflects a similar recognition on the part of many 3GPP members that a Commission decision on the H Block's coexistence with Band 23 is necessary before the standards body can conclude its work – in other words, resolution of AWS-4 service rules is highly interdependent with resolution of H Block rules.

<sup>8</sup> Letter from Lawrence Krevor and Rafi Martina, Sprint Nextel Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70, 04-356, ET Docket No. 10-142 (October 11, 2012).

By contrast, DISH asserts that the Commission should defer if not ignore any potential consequences for the H Block arising from the instant proceeding.<sup>9</sup> DISH seemingly wants to have its cake and eat it too – it wants the Commission to adopt a change from MSS/ATC secondary use to primary terrestrial broadband use in the S Band, but seemingly without adopting the common sense technical rules necessary to ensure that the AWS-4 licensee and adjacent spectrum licensees and users can co-exist while making maximum use of this spectrum. DISH's assertion that it is premature for the Commission to adopt these rules doesn't make sense; it asks the Commission to refrain from deciding the issues that are at the heart of this rulemaking proceeding and integral to reallocating the S Band to terrestrial use. The record is complete, and it is not at all premature for the Commission to determine the out-of-band interference limits, power limits, and other service rules necessary to enable the S Band MSS spectrum to be reallocated for terrestrial use while protecting adjacent operations and maintaining a broadband-viable H Block in accordance with Congressional directive.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please let me know if you have any questions regarding this filing.

Respectfully submitted,

/s/ Lawrence R. Krevor

Lawrence R. Krevor,  
Vice President, Legal and Government  
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/s/ Rafi Martina

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<sup>9</sup> DISH's support for an H Block dedicated to lesser purposes, such as small cells or air-to-ground communications, would pale in value and utility to a new H Block established for robust broadband use, which would foster competition, promote innovation and create jobs, consistent with the National Broadband Plan.